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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 BARRY LAMON,

No. CIV S-03-0423-FCD-CMK

12 Plaintiff,

13 vs.

ORDER

14 LYTLE, et al.,

15 Defendants.
16 _____/

17 Plaintiff, a state prisoner proceeding pro se and in forma pauperis, brings this civil
18 rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's motion for a
19 temporary restraining order (Doc. 254).

20 Plaintiff, who is currently housed at California State Prison – Sacramento (“CSP-
21 Sac.”), was transferred to that prison from California State Prison – Corcoran (“CSP-Corcoran”) in order to attend court proceedings in this matter. He now seeks an order directing prison
22 officials to transfer him back to CSP-Corcoran “to await a final determination of when trial will
23 begin in this matter” and that he not be returned to CSP-Sac. “more than ten (10) days prior to an
24 established trial date or retained at [CSP-Sac.] for more than seven (7) days following the
25 completion of trial proceedings in this matter.” He states that non-party correctional officers at
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1 CSP-Sac. have acted “in concert with Defendants Lytle, Murphy, Lored, Scicluna” to “taint my
2 meals with chemical agents that cause me chronic severe liver, kidneys, intestinal, stomach, and
3 head pain and mental trauma.”

4 The gravamen of plaintiff’s current motion for injunctive relief in the form of a
5 temporary restraining order is that defendants, in concert with non-party prison officials at CSP-
6 Sac., are engaging in conduct designed to cause plaintiff physical and mental injuries. Reading
7 plaintiff’s motion liberally, the purpose of this conduct would be either to thwart plaintiff’s
8 ability to litigate the instant action and/or to retaliate against plaintiff. Defendants will be
9 required to respond to plaintiff’s motion.

10 The court observes that, where a prisoner is seeking injunctive relief with respect
11 to conditions of confinement, the prisoner’s transfer to another prison renders the request for
12 injunctive relief moot, unless there is some evidence of an expectation of being transferred back.
13 See Prieser v. Newkirk, 422 U.S. 395, 402-03 (1975); Johnson v. Moore, 948 F.3d 517, 519 (9th
14 Cir. 1991) (per curiam). Therefore, as to plaintiff’s current request that he be transferred back to
15 CSP-Corcoran, plaintiff’s transfer from CSP-Sac. – where the defendants and non-party
16 correctional officers mentioned in plaintiff’s motion are employed – would moot that part of the
17 motion. If plaintiff is scheduled to be returned to CSP-Corcoran in the near future, defendants
18 should indicate in their response when that transfer is set to occur.

19 Accordingly, IT IS HEREBY ordered that defendants file a response to plaintiff’s
20 motion for a temporary restraining order within 20 days of the date of this order.

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22 DATED: October 17, 2008

23 
24 **CRAIG M. KELLISON**
25 UNITED STATES MAGISTRATE JUDGE
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